

International Labour Conference

NINETEENTH SESSION
GENEVA, 1935

REDUCTION OF HOURS OF WORK

with special reference to:

- (a) Public Works undertaken or subsidised by Governments;**
- (b) Iron and Steel; (c) Building and Contracting;**
- (d) Glass Bottle Manufacture; (e) Coal Mines**

Item VI on the Agenda

**Vol. I: Public Works undertaken or subsidised
by Governments**

INTERNATIONAL LABOUR OFFICE

GENEVA, SWITZERLAND

BRANCH OFFICES

China: Mr CHENG HAI-FONG, 868 Bubbling Well Road (No. 109), Shanghai ("Interlab, Shanghai"; Tel 30 251), or International Labour Office (Nanking Branch), Ta Tsang Yuen, Ho Hwa Tong, Nanking (Tel 22.983)

France: Mr. MARIO ROQUES, 205 Boulevard St-Germain, Paris VIIe. ("Interlab, Paris 120", Tel Littré 92-02)

Great Britain: Mr. M R K. BURGE, 12 Victoria Street, London, S W.1 ("Interlab, Sowest, London"; Tel. Victoria 2859.)

India: Mr. P. P. PILLAI, International Labour Office (Indian Branch), New Delhi ("Interlab, New Delhi"; Tel. 3191.)

Italy: Mr. A CABRINI, Villa Aldobrandini, Via Panisperna 28, Rome. ("Interlab, Rome", Tel 61 498)

Japan: Mr. J ASARI, Shisei Kaikan Building, Hibiya Park, Kojumachiku, Tokyo. ("Kokusairodo, Tokyo"; Tel. Ginza 1580.)

United States: Mr. L MAGNUSSON, 734 Jackson Place, Washington, D.C. ("Interlab, Washington"; Tel. District 8736)

NATIONAL CORRESPONDENTS

Argentine Republic: Mr RAOUL MIGONE, Escritorio No 460 de la Bolsa de Comercio, Calles 25 de Mayo y Sarmiento, Buenos Aires ("Interlab, Buenos Aires"; Tel Rivadavia [37] 1001.)

Austria: Mr FRANZ WLCEK, Helfferstorferstrasse 6, Vienna I. (Tel. R 28 500)

Belgium: Mr. M GOTTSCHALK, Institut de Sociologie Solvay, Park Léopold, Brussels ("Interlab, Brussels", Tel 33 74 86)

Brazil: Mr. S DE SOUZA, Rua das Laranjeiras 279, Rio de Janeiro. ("Interlab, Rio", Tel 5 0868)

Czechoslovakia: Mr. OTAKAR SULIK, Pankrac 853, Prague XIV. ("Sulik, 853 Pankrac, Prague"; Tel. 575-82)

Estonia: Mr A GUSTAVSON, Uus-Sadama Tán 11-a, Tallinn. ("Gustavson, Merikodu, Tallinn", Tel. 301-48.)

Germany: Mr. WILHELM CLAUSSEN, Kurfürstenstrasse 105, Berlin W 62 ("Clausen, B-4-3169, Berlin", Tel. B 4 [Bavaria] 3169.)

Hungary: Mr. GEZA PAP, Lánchíd-utca 2, Budapest I.

Latvia: Mr. KARLIS SERŽANS, Skolas iela 28, Riga ("Tautlab, Riga, Latvia")

Lithuania: Mr K. STRIMAITIS, Zemaiciu 71, Kaunas (Tel. 32-31.)

Poland: Mme FRANÇOIS SOKAL, Ul Bi Ladyslawia 12, Warsaw. ("Interlab, Warsaw", Tel 8 42-01)

Rumania: Mr. G VLADESCO RACOASSA, Piața Al Lahovary Ia, Bucuresti III (Tel 231-95)

Spain: Mr A FABRA RIBAS, Apartado de Correos 3032, Madrid ("Interlab, Madrid"; Tel 30.848)

Yugoslavia: Mr. L STEINITZ, Poštanski Pregradak 561, Belgrade. ("Interlab, Belgrade")

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**GENEVA
INTERNATIONAL LABOUR OFFICE**

1935

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INTRODUCTION

The various stages in the discussion of the question of the reduction of hours of work up to the date of the Eighteenth (1934) Session of the International Labour Conference have been set out in previous Reports of the International Labour Office ¹. It is not necessary here, therefore, to give more than a brief statement of the proceedings of the Eighteenth Session of the Conference and of the circumstances in which the question has again been placed on the Agenda of the Nineteenth Session

The Eighteenth Session of the Conference, which met in June 1934, had before it a Report submitted by the Office containing the replies of the Governments of the States Members of the Organisation to a Questionnaire framed in accordance with decisions of the previous Session and the texts of two proposed Draft Conventions, drawn up by the International Labour Office and relating respectively to industry and to commerce and offices. In presenting these texts, the Office drew the attention of the Conference to certain difficulties it had experienced in framing them. These difficulties were due to the fact that the Report had had to be prepared at a time when replies to the Questionnaire had not yet been received from the Governments of a number of countries, including some of considerable industrial importance, and that several of the replies that were available indicated varying degrees of hesitancy on the part of Governments to accept a general obligation to

¹ INTERNATIONAL LABOUR OFFICE *Hours of Work and Unemployment* (Report to the Preparatory Conference, January 1933), *Reduction of Hours of Work · Report of the Tripartite Preparatory Conference* (International Labour Conference, Seventeenth Session, Geneva, 1933, Report V), *Reduction of Hours of Work* (International Labour Conference, Eighteenth Session, Geneva, 1934, Report I)

Cf. also *International Labour Review*, Vol. XXVII, No. 3, March 1933 "The Preparatory Conference on the Forty-Hour Week", by Fernand Maurette; Vol. XXVIII, No. 3, September 1933 "The Seventeenth Session of the International Labour Conference"; and Vol. XXX, No. 3, September 1934 "The Eighteenth Session of the International Labour Conference"

apply the reduction of hours of work over the whole field of industrial and commercial employment.

The apprehensions of the Office as to the likelihood of general acceptance of its drafts at the Conference were justified by the event. After a lengthy general discussion, the Conference decided, by 71 votes to 22, to refer the Report and drafts prepared by the Office to a Committee for consideration. The Employers' delegates (with the exception of the Italian Employers' representative) declined, however, to take part in the work of this Committee. Owing to the fact that the normal distribution of voting power in the Committee was thus disturbed and that the voting strength of the Government representatives on it was not always exercised to the full, the Workers' members of the Committee were able to secure the adoption of every amendment to the texts submitted by the Office of which they approved and the rejection of every amendment of which they disapproved. The result was that while most of the provisions of these texts were accepted without change, the scope of the proposed Draft Conventions was considerably extended by the deletion or amendment of certain provisions relating to exceptions and exemptions from their application. When, therefore, the texts adopted by the Committee came up for consideration by the Conference in plenary sitting, it was impossible to secure a sufficient measure of general agreement in the Conference as to the scope of the proposed Draft Conventions, and the quorum was not obtained in the vote on the first Article of the proposed Draft Convention relating to industrial undertakings.

It was clear that further progress could not be made on the lines hitherto followed, and the Conference therefore adopted, by 75 votes to 37, a resolution which, while endorsing the principle of the reduction of hours of work and declining to abandon the attempt to give effect to the principle through some form of international regulations, provided for the possibility of a new line of approach to the solution of the problem which it had not been able to achieve at that Session. The terms of this resolution were as follows

Whereas the reduction of hours of work, considered either as a palliative of unemployment or as a method of enabling the workers to share in the benefits of technical progress, remains one of the principal tasks of the Organisation,

Whereas the Conference, by its first discussion of the question last year and by embarking at its Eighteenth Session upon the

procedure for the adoption of Draft Conventions or Recommendations, has been in favour of the principle of the reform;

The Eighteenth Session of the International Labour Conference,

While recognising that at the Eighteenth Session it has not been possible to obtain the essential quorum upon the drafts under consideration,

Requests the Office to obtain further information and the Governing Body to place once more the question of the reduction of hours of work upon the Agenda of the next Session of the Conference, for the adoption of one or more Draft Conventions.

When this Resolution of the Eighteenth Session of the Conference came before the Governing Body in September 1934, the development of the discussions on the reduction of hours of work had been as follows:

Although the representatives of the Employers (with the exception of the Italian representative) had consistently opposed the reduction of hours of work as a suitable means of reducing unemployment, the principle of the proposal had been endorsed repeatedly by substantial majorities. It had not, however, been possible to secure sufficient agreement for the application of the principle by means of general Conventions applicable respectively to industrial undertakings as a whole and to commercial and similar establishments as a whole. The possibility of a series of Conventions each applicable to a particular industry or group of industries had been envisaged in the early stages of the discussion, but progress on these lines had not continued because of the desire, in view of the steadily increasing gravity of the unemployment problem, to secure effective international action as soon and on as wide a scale as possible. With the failure of the efforts to reach sufficient agreement on general Conventions, the question again arose of giving effect to the principle through a series of special Conventions, or some similar device. Moreover, apart from the course of the discussions in the Organisation, the development of the economic situation had led to increasing stress being laid on the importance of a reduction of hours of work as a means not only of diminishing unemployment but also of enabling workers to share in the benefits of technical progress. Despite the general economic depression, technical development had proceeded at an uninterrupted and indeed, it might be said, at an accelerated pace, and there was good reason for fearing that, even if production were restored to the pre-depression level, there would still be, at any rate in certain industries, very large numbers of workers who could never be

re-employed if hours of work were maintained at their former level. There had also been important developments in two other respects. The United States of America had undertaken a reduction of hours of work over virtually the whole field of industrial and office employment and consideration had to be given both to the results of this application of the principle on a scale far exceeding any previous attempts in other countries and to the fact that the application had been effected "industry by industry", the arrangements for each industry conforming generally to a uniform standard but making special provision for special requirements. Finally, there was the important fact that two great industrial countries, the United States of America and the Union of Soviet Socialist Republics, had both become Members of the International Labour Organisation.

It was in these circumstances that the Governing Body of the International Labour Office, in September 1934, took up consideration of the Resolution adopted by the Eighteenth Session of the Conference. During the discussions of the Governing Body, the Employers' representatives (always with the exception of the Italian representative) maintained their attitude of opposition to the principle of reduction of hours of work, while the Workers' representatives still pressed to have the question placed on the Agenda of the Nineteenth Session of the Conference with a view to the adoption of a general Convention. A proposal to this effect by the Workers' group was, however, rejected by 18 votes to 10 and the Governing Body adopted, by 22 votes to 7, the following Resolution submitted by nine Government representatives

The Governing Body decides

(1) to place the reduction of hours of work on the Agenda of the Nineteenth Session of the Conference,

(2) to instruct the Office to draw up a draft for a single Convention providing for the reduction of hours of work in all classes of establishments. The Conference shall determine at that Session, and at subsequent Sessions the classes of establishment to which this reduction shall apply, and the methods of application for each of them;

(3) to reserve until the next Session of the Governing Body — which will have before it reports to be prepared by the Office, including the information received in the meantime from the Governments — the final selection of the industries, establishments or categories to which it is proposed that the Nineteenth Session of the Conference should apply the reduction of hours of work

It will be noted that by the second paragraph of the resolution of the Governing Body the Office was instructed to draw up a draft for a single Convention on the reduction of hours of work. On careful examination the Office found that, for the reasons set out in the First Part of this Report, it would hardly be practicable to deal with the matter in this way, and accordingly the Office has had to submit to the Conference for consideration an alternative method of achieving the purpose which the Governing Body had in mind.

The final selection of industries to be considered by the Nineteenth Session of the Conference in accordance with the third paragraph of this resolution was made by the Governing Body at its Sixty-ninth Session in January 1935, with the result that the question appears on the Agenda in the following form.

Reduction of Hours of Work, with special reference to.

- (a) Public works undertaken or subsidised by Governments.
- (b) Iron and steel
- (c) Building and contracting
- (d) Glass bottle manufacture
- (e) Coal mines

The Governing Body also decided that the question should be regarded as a single item on the Agenda and not as five separate items. This followed logically upon the decision already taken, for while it had been agreed that the Conference should be called upon to consider the adoption of an international instrument laying down the principle of a general reduction of hours of work, it was recognised that there would be little value in a mere declaration of principle unaccompanied by any measures to give it practical application. It was, of course, left to the Conference itself to decide whether it would deal with the item on the Agenda by way of a single discussion or by the usual double-discussion procedure, but, having regard to the fact that the question had already been before the Conference on several occasions and that the Eighteenth Session appeared, from the terms of its Resolution, to have contemplated the adoption of one or more Draft Conventions at the next Session, the Governing Body proceeded on the assumption that the Conference might wish to reach a final decision at the Nineteenth Session in respect of at least one of the categories of employment mentioned in the item on the Agenda.

The Office has accordingly had to prepare for submission to the Conference a report on this item on the Agenda which will

enable it to proceed by way of either a single or a double discussion procedure. In accordance with the Standing Orders of the Conference, a Grey Report prepared for the first stage of the double-discussion procedure, which includes a statement of the law and practice in the various countries and a list of points as a basis for the consultation of Governments by means of a Questionnaire, has to be submitted to the Governing Body before it is despatched to Governments. In view of the special circumstances, an accelerated procedure has been adopted, but the necessity for submitting the Grey sections of the present Report to the Members of the Governing Body has inevitably delayed the publication of the Report as a whole.

Although the reduction of hours of work appears on the Agenda as a single item, it has been thought convenient to divide the Report submitted to the Conference into five separate but connected volumes, each dealing with one industry. Each volume contains, in addition to the present Introduction, three parts. Part I deals with the general principle of the reduction of hours of work and the proposals that the Office submits to the Conference for consideration in this connection, and with the reasons for which it has seemed appropriate to apply the principle in the first place to the five industries or categories of employment specified in the item on the Agenda. This matter is common to all five volumes of the Report. Part I also contains a brief examination, from the point of view of suitability for immediate consideration, of the characteristics of the particular industry or category of employment to which the volume relates. Part II of each volume provides a basis for the work of the Conference if it should decide to follow the procedure of double discussion. It gives, on the usual lines of a Grey Report, an account of existing regulations for the limitation of hours of work in the particular category of employment to which the volume relates and an examination of the problems arising in connection with international regulations, and concludes with a draft list of points on which the Office suggests that Governments might be consulted with a view to the second stage of the double-discussion procedure. Part III provides a basis for the work of the Conference if it should decide to take a final decision at its Nineteenth Session. This corresponds to the usual Blue Report and concludes with the text of a proposed Draft Convention submitted by the Office to the consideration of the Conference. Parts II and III are each more or less self-contained,

this being thought to be the more convenient arrangement even though it entails some repetition in Part III of matters already discussed in Part II. A sixth, supplementary volume gives by way of common appendix to each of the other five volumes a summary statement of the laws and regulations concerning hours of work in a number of countries which are of general application and not special to the particular industries dealt with in the other volumes

Geneva, *April 1935.*

FIRST PART

GENERAL OBSERVATIONS

I. — THE GENERAL PRINCIPLE OF THE REDUCTION OF HOURS OF WORK

It is not proposed, in this section, to discuss the merits of the case for the reduction of hours of work. In the previous Reports and in the discussions of the Conference the arguments for and against have been put forward at length, and the Conference has already agreed to accept the principle and decided that the matter is suitable to form the subject of international regulations. The question still to be decided is the form of the international instrument in which the principle is to be incorporated.

During the closing stage of the discussion of this subject at the Eighteenth Session of the Conference, Mr de Michelis, Italian Government delegate, put forward a tentative proposal for a Draft Convention laying down the general principle of the forty-hour week and providing for a "step by step" application of the principle to particular branches of economic activity. This proposal was submitted in the following form

Article 1 This Convention applies to persons employed in public and private undertakings engaged in the economic activities to be included in the annexed schedule by decision of the annual Sessions of the International Labour Conference.

Article 2 The hours of work of every person to whom this Convention applies shall not exceed an average of forty per week. This average shall be calculated over a period not exceeding four weeks.

Article 3 The Conference, at the Sessions at which it decides to add branches of economic activity to the annexed schedule, will at the same time adopt in respect of each of them the supplementary provisions and special derogations that may be necessary for the application of this Convention.

Similarly, the Governing Body of the International Labour Office, in the resolution adopted at its Sixty-eighth Session, contemplated the framing of a single Convention providing for the reduction of hours of work in all classes of establishments but applied to particular classes of establishments as the Conference should from time to time decide.

This method of procedure, however, presents certain difficulties, not as to the substance but as to the form of the international regulations. The intention in framing a single Convention would be to give expression to the conception of the reduction of hours of work as a reform to be regarded as a whole. In fact, however, the structure of International Labour Conventions does not lend itself very readily to the realisation of so comprehensive a reform as the general introduction of the "forty-hour week" by means of a single Convention including specific provisions applicable to all industries and establishments. Such a Convention would have to be extremely long and detailed indeed in order to cover every aspect of so wide a question. Moreover, as experience has already shown that sufficient agreement cannot be secured for the adoption of a Convention applying immediately to all industries, it would be necessary to make provision in the new Convention to enable a State to make its ratification of the Convention applicable only in respect of certain of the industries or branches of industries covered and not in respect of all of them. Careful examination of this question of the form of the international regulations to be adopted seems to show that it would be both simpler and more effective to approach the problem by considering the adoption of a series of distinct Conventions.

This method might, however, be applied in either of two ways. The Conference might adopt a Convention laying down the principle of the forty-hour week, and this might be followed by the adoption of a series of Conventions devoted to the practical application of the principle to particular industries. But the advantage of a "Convention of principle" would be problematic. The adoption by the Conference of an instrument of this kind, the content of which would be merely general and abstract, would not involve any positive obligation on the States Members of the Organisation. The States Members would have before them two kinds of Conventions: the Convention of principle, framed in general terms, without any positive content and having no practical value unless and until it had been applied to some particular industry or class of establishment, and the specific Conventions dealing with the practical application of the principle in particular industries. This procedure would be open to serious objections and it might well be asked whether it would be proper to use an International Labour Convention, not for setting up definite legal standards, but for a mere

declaration of principle. Even if the Convention of principle went further, and embodied not merely a declaration of principle but also a provision that the industries to which the principle should be applied would be determined later by the Conference, the practical difficulty would remain. It would be impossible to invite the States Members of the Organisation to bind themselves in advance, by ratifying the Convention of principle, to accept the application of it to all the industries to which the Conference might in future decide that it should be applied, since the States could not know either what those industries would be or what would be the specific provisions adopted by the Conference in respect of each of them.

It has been necessary, therefore, to devise a procedure that will leave to the States Members freedom to take separate decisions as to the industries to which they will at any particular time undertake to apply the reduction of hours of work and at the same time will ensure that the application of the reduction to any particular industry is conceived as part of a general scheme for the progressive application of the reduction over an ever-widening field intended ultimately to extend to all economic activities.

After careful consideration of this question of procedure, the Office has come to the conclusion that the most appropriate and at the same time adequate method would be to frame separate Conventions making the necessary provision for the application of the principle to each industry, and to integrate the series of separate Conventions into a whole by a common Preamble¹ relating all of them to a declaration of the general principle of the reduction of hours of work in all economic activities. In view of its character, and also for practical reasons, this declaration should, it is thought, take the form of a special Resolution adopted by the Nineteenth Session of the Conference. This special Resolution would, of course, be different in character from an ordinary resolution adopted by the Conference, since it would be the basis of all the separate Conventions adopted by the Nineteenth and later Sessions of the Conference and would link them together as a single code.

The Office has accordingly prepared for the consideration of the Conference the text of a proposed Draft Convention for each of the "industries" included by the Governing Body in the

¹ For the suggested text of this Preamble, see the text of the proposed Draft Convention given at the end of this volume

item on the Agenda of the Nineteenth Session. These texts deal with the practical application of the principle and make the necessary specific provisions required to meet the circumstances of each case. The appropriate explanations of the Office's proposals and the actual texts are given in the separate volumes relating to the particular industries. For the declaration of principle, which it is suggested for the reasons set out here should be embodied in a special Resolution, the Office submits for the consideration of the Conference the following text.

DRAFT RESOLUTION ON THE REDUCTION OF HOURS OF WORK

Whereas unemployment has become so widespread and long-continued that there are at the present time many millions of workers throughout the world suffering hardship and privation for which they are not themselves responsible and from which they are justly entitled to be relieved,

Whereas it is desirable that workers should as far as practicable be enabled to share in the benefits of the rapid technical progress which is a characteristic of modern industry,

Whereas in pursuance of the Resolution adopted by the Eighteenth Session of the International Labour Conference it is necessary that a continuous effort should be made to reduce hours of work in all forms of employment to such extent as is possible,

The Conference therefore declares its approval of the principle of the forty-hour week as the general international standard of hours of work and as a guide for the action of the Members of the Organisation, without prejudice to further reductions of hours where circumstances permit

The Conference will proceed, at the present and subsequent Sessions, to the consideration of a series of Draft Conventions for the progressive application of this principle to the whole field of employment, having regard to the special circumstances of particular groups of establishments or classes of workers

The Conference accordingly decides to refer to a Committee for consideration the Reports prepared by the International Labour Office on the application of the reduction of hours of work to

- (a) Public works undertaken or subsidised by Governments,
- (b) Iron and steel,
- (c) Building and contracting,
- (d) Glass bottle manufacture,
- (e) Coal mines

II. — THE ADJUSTMENT OF WAGES

There remains to be considered the question whether the Conference should take any decision in regard to the problem of wage adjustments rendered necessary by a reduction in

hours of work. It is true that the wording of the item on the Agenda of the Conference makes no explicit reference to wages, but it is obvious that hours of work and wages are closely inter-related and wages have come under consideration at all stages of the discussions that have taken place concerning the reduction of hours of work. There would seem, therefore, to be no reason why the Nineteenth Session of the Conference should not make a pronouncement on the question of wages if it so desires.

The Tripartite Preparatory Conference held in January 1933 agreed by 32 votes (13 Government and 19 Workers' representatives) to 19 (3 Government and 16 Employers' representatives) that in whatever form the scheme of regulation adopted for reducing hours of work might be embodied, a Recommendation concerning the standard of living of the workers and wages should be considered. Questions regarding the maintenance of wages, salaries and the standard of living were included in the Questionnaire issued in preparation for the Eighteenth Session of the Conference and the replies showed that the opinion of Governments generally was that the question of wages and salaries, and with it the allied question of the standard of living, was of such importance that it ought to be dealt with, but that as it could not be regulated internationally by way of a Draft Convention the appropriate method of laying down at least certain general principles would be the adoption of a Recommendation. The Office accordingly submitted for the consideration of the Eighteenth Session of the Conference a draft of a Recommendation which was approved by the Committee to which it was referred, though no decision concerning it was taken by the full Conference.

In these circumstances the Office has felt itself bound to submit to the Conference a proposal which would enable it, if it so desired, to give consideration to the problem of wages, and the Office has accordingly had to examine the question of the form that its proposal should take.

It would clearly be impracticable for the Conference to adopt detailed international regulations on the subject of wages. In the first place, any international agreement as regards wages would involve an obligation on Governments to undertake the regulation of wages. In many cases, Governments are not in a position to do this, and in most countries neither Governments, employers nor workers desire that the fixing of wages should become a Government responsibility.

Secondly, any agreement reached as to the maintenance of certain levels of wages would be exposed to two serious, if not insuperable, difficulties. At the present time international exchanges are subject to constant fluctuations, which might at any time destroy the basis on which agreement had been reached. A rise or fall in the external value of a national currency may easily produce a much greater differential for purposes of foreign competition than a rise or fall in the value of nominal wages. Moreover, any international agreement could only be of very short duration. The level of wages in each country and in each industry is determined not only by considerations of international competition but also by all the influences affecting the domestic market and the cost of living. Wage rates everywhere are therefore subject to constant readjustment. Wages cannot be stabilised indefinitely at a particular level, and if Governments were to be required, as an international obligation, to maintain some sort of equivalence with other countries this would entail a degree of State intervention in the determination of wages that would not only give rise to very serious complications in practice but is not even generally accepted in principle.

International regulation being impracticable, the only alternative is to leave the matter to be dealt with by national action in accordance with the conditions prevailing in each country. The Conference may, however, think it proper to give some indication as to the principle upon which, and the methods by which, any adjustment of wages consequent upon the reduction of hours of work should be effected.

As regards the principle, the previous discussions on the subject have revealed a substantial measure of agreement upon the principle that the reduction of hours of work ought not to result in lowering the standard of living of the workers.

As regards the method, the most effective method would appear to be the simplest, namely, to leave the question of wage readjustments to be settled where possible by direct negotiations between the employers' and workers' organisations concerned, and to meet the case of a failure to reach agreement by enabling either party to submit the question, if it so desires but without compulsion, to some body competent to deal with such questions.

Inasmuch as the general principle of the reduction of hours of work will be dealt with, if the proposals of the Office are accepted, in a special Resolution, it would be appropriate for

the question of wage adjustments to be dealt with in an accompanying resolution. The Office accordingly submits for the consideration of the Conference the following draft text

DRAFT RESOLUTION ON THE ADJUSTMENT OF WAGES AND SALARIES

The Conference,

Having adopted a Resolution declaring its approval of the principle of the forty-hour week,

Considering that the application of this principle should not result in lowering the standard of living of the workers,

Invites Governments to take appropriate measures in order to ensure:

- (1) that any adjustment of wages and salaries should be effected as far as possible by means of direct negotiations between the employers' and workers' organisations concerned, and
- (2) that if agreement between the parties concerned cannot be reached it should be possible for either of the parties concerned to submit the dispute to bodies competent to deal with wage questions, and further, that where no such bodies exist they should be set up.

III. — THE CHOICE OF INDUSTRIES FOR IMMEDIATE APPLICATION OF THE REDUCTION OF HOURS OF WORK

When it was deciding the form in which the question of the reduction of hours of work should again be placed on the Agenda of the Conference, the Governing Body felt that a restatement of the principle of reduction unaccompanied by any measures to give it immediate application would not constitute a material advance, and that accordingly the Conference might wish to adopt at its Nineteenth Session international regulations to secure the application of the principle to at least one industry. The primary consideration in the choice of the industries to be specified in the item on the Agenda was therefore the likelihood of its being possible to arrive at sufficient agreement to permit of the adoption of a Draft Convention without delay. There are other criteria which might be applied for the purpose of the selection, such as the number of persons employed in the industry, the extent of unemployment and short time, the degree to which rationalisation and mechanisation have progressed, the possibility of defining the industry with sufficient precision and stability for the purpose of international regulations, the nature

and methods of organisation of work in the industry, the actual hours of work and the methods by which they are regulated. All of these are important considerations, and information on them will be found in the volumes of this Report devoted to the particular industries figuring in the item of the Agenda. But the dominant consideration which led the Governing Body to select these obviously very diverse industries from the much longer list of industries it had before it when making its choice was the prospect of reaching early agreement.

For a considerable number of reasons public works undertaken or subsidised by Governments would appear to be eminently suitable as a first choice for the application of the reduction of hours of work. Their distinctive feature is not their technical character — for technically they might be classed with the building and contracting industry — but the fact that they are undertaken by or on behalf of some public authority which, since it provides the necessary funds, is in a position either to determine for itself or to impose in any contract for the execution of the work the conditions of employment that it may deem fitting. Where the public authority is the central Government of the country (in the case of Federal States, the Federal Government), then — unless it has already bound itself in advance to grant subsidies on certain conditions that cannot be altered immediately — all that is required to ensure the reduction of hours on public works is a decision by the Government that hours should be reduced. The decision is a matter for administrative action, and there is no occasion for legislation or protracted negotiations with employers' and workers' organisations or any other procedure such as might delay the establishment of a shorter working week in an employment not directly under the control of the Government.

In addition, the burden of unemployment constitutes a very heavy charge upon the finances of Governments, which have therefore a direct interest in the adoption of any measure calculated to reduce unemployment. This is not, of course, the place to discuss the value of public works as a means of reducing unemployment, both by the engagement of large numbers on the works themselves and by the widening circle of employment created in the supply of materials, etc., and in the increased demand for goods by the workers for whom employment is

secured¹ But it is important to note that in general a very high proportion — usually about 50 per cent. — of the expenditure on public works is represented by the wages of the workers directly employed, so that increased employment in public works makes an effective contribution to general economic recovery

Already a considerable number of Governments have recognised the importance of reducing hours on public works, both in order to increase the number of persons directly employed and in order to set an example to other employers. Hours have been reduced in public works in Australia, Belgium, Canada, Czechoslovakia, Germany, Luxemburg and the United States of America, and other countries, such as Denmark and France, are contemplating a reduction.

Finally, early ratification of a Draft Convention relating to public works should be facilitated by the fact that no question of direct international competition arises in respect of such works

For all these reasons it would seem that priority should be given to public works undertaken or subsidised by Governments in the selection of the categories of employment to which the principle of the reduction of hours of work should be first applied. This, of course, does not mean that there are no special features of public works requiring careful consideration in the framing of international regulations applying to them. Attention has already been called to certain considerations which seem to make it desirable to limit the scope of the Draft Convention to a field which is under the immediate control of the central Government. Similarly, it appears to be necessary to deal only with direct employment on the public works themselves and not to include indirect employment in the production of goods for such works. These and other considerations which will have to be borne in mind in framing regulations for public works are dealt with later

¹ Cf. INTERNATIONAL LABOUR OFFICE *Unemployment and Public Works* (Studies and Reports, Series C, No 15, Geneva, 1931), *Public Works Policy* (Studies and Reports, Series C, No 19, Geneva, 1935) — LEAGUE OF NATIONS COMMUNICATIONS AND TRANSPORT ORGANISATION *National Public Works*, Geneva, 1934

and methods of organisation of work in the industry, the actual hours of work and the methods by which they are regulated. All of these are important considerations, and information on them will be found in the volumes of this Report devoted to the particular industries figuring in the item of the Agenda. But the dominant consideration which led the Governing Body to select these obviously very diverse industries from the much longer list of industries it had before it when making its choice was the prospect of reaching early agreement.

For a considerable number of reasons public works undertaken or subsidised by Governments would appear to be eminently suitable as a first choice for the application of the reduction of hours of work. Their distinctive feature is not their technical character — for technically they might be classed with the building and contracting industry — but the fact that they are undertaken by or on behalf of some public authority which, since it provides the necessary funds, is in a position either to determine for itself or to impose in any contract for the execution of the work the conditions of employment that it may deem fitting. Where the public authority is the central Government of the country (in the case of Federal States, the Federal Government), then — unless it has already bound itself in advance to grant subsidies on certain conditions that cannot be altered immediately — all that is required to ensure the reduction of hours on public works is a decision by the Government that hours should be reduced. The decision is a matter for administrative action, and there is no occasion for legislation or protracted negotiations with employers' and workers' organisations or any other procedure such as might delay the establishment of a shorter working week in an employment not directly under the control of the Government.

In addition, the burden of unemployment constitutes a very heavy charge upon the finances of Governments, which have therefore a direct interest in the adoption of any measure calculated to reduce unemployment. This is not, of course, the place to discuss the value of public works as a means of reducing unemployment, both by the engagement of large numbers on the works themselves and by the widening circle of employment created in the supply of materials, etc., and in the increased demand for goods by the workers for whom employment is

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¹ Cf. INTERNATIONAL LABOUR OFFICE *Unemployment and Public Works* (Studies and Reports, Series C, No 15, Geneva, 1931), *Public Works Policy* (Studies and Reports, Series C, No 19, Geneva, 1935) — LEAGUE OF NATIONS COMMUNICATIONS AND TRANSPORT ORGANISATION *National Public Works*, Geneva, 1934.

SECOND PART

BASIS FOR A FIRST DISCUSSION

This part is designed to enable the Conference, if it should decide to apply the double-discussion procedure to the consideration of the reduction of hours of work on public works carried out or subsidised by Governments, to determine the points upon which Governments should be consulted with a view to the taking of a final decision at the succeeding Session of the Conference.

It therefore includes a consideration of the definition of the expression "public works", an account of existing national regulations for the reduction of hours of work on public works, and an examination of the problems arising in connection with international regulations, and concludes with a draft list of points upon which the Office suggests that Governments might be consulted

I. — DEFINITION OF PUBLIC WORKS

The term "public works" is usually taken to include all works carried out either directly or indirectly for purposes of public utility by a public body, whether State, province, department, commune, public institution or establishment, etc., out of its own funds or out of funds raised by it for the purpose. Thus the distinguishing feature of public works lies not in their technical character, but in their purpose and in the nature of the body which organises or finances them. For the purpose of the present Report, however, and in conformity with the wording of the item on the Agenda of the Conference, the term "public works" is here limited to works carried out or subsidised by the Government — that is, the central State authority, or, in the case of a Federal State, the Federal Government*.

These works may be carried out under the immediate control of the State, which may arrange for their execution either by itself directly or through contractors or concession holders, or they may be carried out by some other body in receipt of a State subsidy. In any case, however, the Government supervises the execution of the work and can, if necessary, impose conditions as to the way in which it is to be carried out.

Public works may be of very diverse kinds, as is shown by the information concerning them given in a number of publications of the International Labour Office, in particular, *Unemployment and Public Works*¹, and *Public Works Policy*², as well as in *National Public Works*³, published by the League of Nations. The classified list of public works which was annexed to the circular on National Public Works addressed to Governments by the Secretary-General of the League of Nations on 7 March 1934 indicates this diversity. It divides public works into the following categories

- (a) Roads and bridges.
- (b) Railways, including tramways, metropolitan railways, etc., and construction works connected therewith
- (c) Complete agricultural land reclamation (drainage, irrigation, construction of dwelling houses and various new buildings, or establishment of entire new settlements, country roads and other works connected with land settlement)
- (d) Canals and other inland waterways, including improvement work on rivers, defensive work against floods, etc. (Work not already included under (c))
- (e) Land improvement work, bringing of new land under cultivation, re-afforestation etc. (Work not already included under (c))
- (f) Provision of drinking water supplies and sewage disposal. (Work not already included under (c))
- (g) Work carried out in sea and river ports, including mechanical equipment of such ports
- (h) Work for the establishment of air ports
- (i) Building and construction work forming part of a general plan and carried out or to be carried out with the participation or approval of public authorities classified according to category (administrative buildings, dwelling houses, etc.) (Work not already included under (c))

¹ INTERNATIONAL LABOUR OFFICE *Unemployment and Public Works* Studies and Reports, Series C, No 15 Geneva, 1931. 186 pp.

² INTERNATIONAL LABOUR OFFICE: *Public Works Policy* Studies and Reports, Series C, No 19, Geneva, 1935 124 pp.

³ LEAGUE OF NATIONS COMMUNICATIONS AND TRANSIT ORGANISATION *National Public Works* Geneva, 1934

- (j) Electric installations, hydro-electric and heating power centres, power transmission
- (k) Gas works and long-distance gas supply
- (l) Telegraph and telephone installation, wireless broadcasting stations.
- (m) Other work

This list shows that public works involve a number of very different technical operations, the most important of which, however, come under the head of building and contracting (excavation, masonry, cement and concrete work, and constructional iron and steel work), the special features of which as they affect the organisation of the work are dealt with in the volume on that industry. In addition they include certain special operations such as road surfacing, rail laying, installation of signalling, electrical, telegraph, telephone and wireless equipment, etc. All these works call for the opening up and laying out of the site, the installation of machinery and other apparatus, the supply of tools, and the utilisation of materials and goods the nature and origin of which vary widely according to the kind of work. The materials and goods used on public works are supplied by industrial undertakings, the activities of which are connected with public works, but it is important to note that such undertakings may furnish the same kind of supplies both for public works and to private customers.

II. — NATIONAL REGULATIONS TO REDUCE HOURS OF WORK

Certain countries have introduced restrictions on hours of work on public works, or at any rate on certain public works, with a view to giving employment to a greater number of workers. The regulations adopted for this purpose have an important bearing on the subject of this Report, and an examination of them in conjunction with those applicable to the building industry will furnish material for establishing the basis of international regulations to reduce working hours on public works.

1. Analysis of National Laws and Regulations

The following countries have made provision, by way of legislation or regulations, with a view to reducing directly or

indirectly the hours worked on public works schemes carried out or subsidised by the Government. Czechoslovakia, Estonia, France, Germany, Lithuania, Luxemburg, and the United States of America. In addition, in Italy regulations of a contractual character applicable to all construction work involve a reduction of hours of work in public works. Bills for the purpose are also under consideration in Denmark.

In *Czechoslovakia*, by a decision of the Council of Ministers on 7 July 1933, the competent authorities were urged to include in their specifications for public works a clause concerning the 40-hour week with a view to providing employment for as many workers as possible.

In accordance with this decision a circular was issued by the Minister of Public Works on 28 July 1933 relating to construction work carried out for the State, which required contractors to undertake not to employ workers, in particular unskilled workers, for more than 40 hours in the week provided that this does not affect the time fixed for the execution of the works or the estimated total cost. This measure applies only to workers engaged for direct employment on the works and does not affect the staff of the undertakings supplying the materials, even if they are employed at the site of the works. The circular also applies to construction schemes which are merely subsidised by the Government.

Further, in accordance with the above decision of 7 July 1933, the grant of subsidies out of the Road Fund has been made conditional on the application of the 40-hour week. Work must be distributed over six days in the week with a maximum of 7 hours a day. These provisions must be inserted in the invitations for tenders and in the contracts, and as in the previous case they are subject to the proviso that they shall not affect the time required for the execution of the works or their total cost.

Similar provisions were inserted in the supplementary general rules for the furnishing of Government supplies and for the execution of Government works contracts issued by the Minister of Public Works on 19 May 1934. Should the execution of the works be affected by natural phenomena or weather conditions, or in the event of an accident likely to delay their execution, the Minister of Public Works may authorise a different arrangement of working hours provided that not more than

160 hours are worked over a period of four weeks and that not more than one extra hour is worked each day. These provisions too must be included in the declaration signed by the contractor to whom the contracts for the supplies or works are awarded. The same document also binds him to accept as penalty in the event of his infringing any of the provisions to which he has agreed deductions from the payments due to him.

The Minister of Railways has also taken steps to apply the 40-hour week on all public works carried out by his department.

The application of these provisions is enforced by the labour inspectors. It is the practice for the Minister of Public Works, when awarding a public works contract, to forward to the Minister of Social Welfare three copies of the specifications, one of which is automatically transmitted to the Labour Inspection Office with a view to supervision of the observance of the conditions concerning hours of work, wages, etc. Under an Order of the Minister of Social Welfare dated 16 August 1933, the labour inspectors are required to ensure the strict observance of the 40-hour week on public works for which there is a State contract or subsidy. Another Order, issued in October 1931, instructs the inspectors to notify the Ministers of Public Works and Social Welfare of all cases of non-observance of the conditions laid down in the specifications.

Lastly, as regards relief schemes subsidised under Section IV of Act No. 74 of 1930 concerning productive unemployment relief, State subsidies are granted only for schemes carried out by a specified number of workers on the basis of a 40-hour week.

In *Estonia*, instructions dated 1 October 1934 issued by the Government of the Republic, supplemented by an Order of the Minister of Communications of 11 September 1934, which replaced instructions issued the previous year, provide indirectly by the fixing of a maximum weekly wage for the restriction of the hours worked by unemployed workers engaged on public works schemes.

In *France* a Bill concerning national economic and social equipment, tabled by the Government in October 1933, provided for the possibility of introducing into public works contracts a clause restricting hours of work to not less than 40 in

the week. A similar proposal was put forward by a member of the Chamber during the debate on the scheme to combat unemployment by means of large-scale public works, but was not accepted. An Order of the Minister of Labour dated 9 July 1934, regulating working conditions and the use of materials in carrying out the scheme mentioned above, lays down the following provisions in regard to hours of work:

“Hours of work shall in no case exceed the statutory maximum, nor shall they exceed any lower limit of hours actually worked by those undertakings of the same type in the locality or district which employ the majority of the workers in the occupation concerned.

“If the body to which a loan is made for the execution of public works has required the contractor to engage unemployed workers in receipt of relief to the extent of at least 50 per cent of the total number of workers employed by him on that work, then such body, with the consent of the Minister within whose jurisdiction the work falls and with the approval of the Minister of Labour, may require the hours worked to be shorter than those actually worked in the occupation and area, so as to facilitate the engagement of the largest possible number of unemployed persons in receipt of relief. The hours of work so fixed, after approval by the Minister of Labour, shall remain in force until altered by the same procedure in order to allow for changes in the state of the labour market.”

This measure does not yet appear to have been enforced.

In *Germany* the administrative regulations issued under the Act of 1 June 1933 on the promotion of employment specified that works carried out for the Federal Government, States, communes, associations of communes, or public corporations, were to be allotted only to contractors who undertook to reduce hours of work in their undertakings to 40 in the week until 30 June 1934. A Decree of 16 November 1933, while maintaining the principle of the 40-hour week, provided that longer hours might be worked if the wages for 40 hours of work were below the rate of unemployment benefit previously drawn by the majority of the workers concerned. Finally, on 18 June 1934 the Ministers of Labour and Finance decided that the provisions regarding the 40-hour week should cease to have binding force.

In *Italy* an agreement dated 19 November 1934 between the National Federations of employers and of workers in the construction industry, applicable also to public works, abolishes

the possibility provided for in the Royal Decree of 10 September 1923 (No. 1957) of prolonging the hours of work up to 10 a day and 60 a week during four months of the year in the case of persons working in the open air and engaged on building, road-making and waterworks. Hours of work can therefore in no case exceed 8 a day and 48 a week. As it is no longer possible to make up time lost during the slack season or owing to bad weather, the number of hours worked during the year is in practice necessarily reduced.

In addition, the agreement provides for the suppression of overtime save in exceptional cases, and then subject to the condition that it is not resorted to continuously or at regular intervals.

Workers whose duties are intermittent or consist in mere attendance, in particular caretakers, watchmen and gatekeepers, those working on floating appliances and workers tending machines whose work is not necessarily continuous, are exempt from the provisions of this agreement.

In *Lithuania*, on works organised to relieve unemployment and financed out of the Public Works Fund which was set up under the Act of 22 December 1933, unemployed workers who have three or more dependants are to be employed five days in the week, those with two dependants four days, and single men three days.

In *Luxemburg* Orders issued early in 1934 provide that on works initiated for the relief of the unemployed, whether by the State or local authorities, the number of hours worked shall not exceed 40 in the week.

In the *United States of America* Title II of the National Industrial Recovery Act of 16 June 1933¹, relating to public works and construction projects, provides that all contracts let for construction projects and all loans and grants pursuant to the Act shall contain such provisions as are necessary to ensure that, except in executive, administrative and supervisory positions, so far as practicable and feasible no individual directly employed on any such project shall be permitted to work more than 30 hours in any one week.

¹ This Act expires on 16 June 1935. In a message to Congress of 20 February 1935, President Roosevelt asked for the validity of the Act to be prolonged by two years.

An Executive Order of the President dated 19 August 1933, instituting the Federal Emergency Administration of Public Works, provided for the following modifications of the 30-hour week:

- (1) Working time lost because of inclement weather or unavoidable delay in any one week may be made up within the succeeding twenty days
- (2) In localities where a sufficient amount of labour is not available in the immediate vicinity of the project a maximum of 130 hours' work in any calendar month may be authorised by the Administrator.
- (3) In localities so remote and inaccessible that camps are necessary for the housing and boarding of all the labour employed hours of work may be extended to a maximum of 40 in the week and 8 in the day.

The Order also stipulates that no contractor or sub-contractor on public works projects who is subject to the provisions of a code shall allow any employee to work longer hours than are prescribed by that code.

In the case of public works projects carried out by non-federal authorities, but financed wholly or partly by the Federal Public Works Administration, the State engineers are required to see that the following provision concerning the 30-hour week is inserted in all construction contracts for work on the project:

"Thirty-Hour Week — Except in executive, administrative and supervisory positions, so far as practicable and feasible in the judgment of the Government engineer, no individual directly employed on the project shall be permitted to work more than 8 hours in any one day nor more than 30 hours in any one week; provided that this clause shall be construed to permit working time lost because of inclement weather or unavoidable delays in any one week to be made up in the succeeding twenty days "

In the case of contracts for projects in localities where a sufficient amount of labour is not available in the vicinity, or localities so remote and inaccessible that camps are necessary for the housing and boarding of the labour employed, the above clause may be modified in conformity with the Executive Order of 19 August 1933 mentioned above

It may also be recalled that with a view to providing work for the unemployed, a Federal Emergency Relief Administra-

tion was set up which finances with the aid of Federal funds a great variety of public works schemes, including a certain number of construction projects. The following are the rules applicable to hours of work on the projects organised by this Administration:

"1. The usual hours of labour on all projects shall be not less than 6 in any day nor more than 8 in any day, nor more than 30 in any week, nor more than 128 in any calendar month.

"2. The total monthly hours to be worked may be consolidated in any part of the month within the above 30 hour limitation

"3. *Exceptions* may be made as follows:

"(a) The daily hours specified above may be exceeded in the case of an emergency involving public welfare or protection of work already done

"(b) Workers in supervisory or technical positions or on non-manual projects, or who are working on individual responsibility such as playground supervisors, research workers, etc., may work less than 6 hours a day, but not less than 6 days a week, and may work up to 35 hours a week

"(c) In rural areas workers may consolidate the whole of the month's work into one or two weeks and work up to 40 hours a week for two consecutive weeks or up to 48 hours for any one week when the exigencies of their farm work require or make advantageous this kind of consolidation

"(d) The same exception may be made in rural areas for work performed in exchange for human and feed relief previously given

"(e) In outlying camps 40 hours per week and 170 hours a month is allowable "

On schemes carried out under the auspices of the Civil Works Administration during the winter of 1933-1934, many of which were also construction projects, hours of work were also limited to 8 in the day and 30 in the week, except for salaried employees (39 hours weekly) and workers employed in remote localities (40 hours weekly). Owing to the rapid dwindling of the funds available, however, hours were reduced from 19 January 1934 to 24 in the week in localities of over 2,500 inhabitants, and 15 in all other localities, while for salaried employees and supervisory staff hours were reduced to 30 in the week.

As already mentioned, several Bills concerning hours of work on public works are at present under consideration in *Denmark*. A Bill introduced by the Minister of Social Affairs on 22 March 1933 provided for the temporary application of the 40-hour

week on all works undertaken or subsidised by public authorities to relieve unemployment. The reduction of hours might be applied on one or more days in the week or during one week in any period not exceeding 6 weeks. The Minister reserved the right to restrict the working week to 36 hours or to extend it to 42 hours in certain cases. This Bill was re-introduced during the 1933-1934 Parliamentary Session. As it was not likely to be passed, the Minister of Social Affairs asked the Committee on Unemployment set up by the Government to consider the possibility of reducing hours of work on a larger scale than that provided for by the Government Bill, and to consider if and to what extent it might be possible, in particular where wages were low, to provide compensation directly or indirectly for the loss of wages resulting from the shorter working week. The Unemployment Committee presented a report containing the main points of a new Bill. The Government has submitted to the present session of Parliament a Bill maintaining the principle of a reduction of hours of work and providing that municipalities carrying out municipal public works which would not otherwise be undertaken at present, with a view to providing work for unemployed persons domiciled in their area, might have part of their wage costs refunded by other municipalities, the right to a refund applying only in respect of works on which the hours of work do not exceed 36 in the week.

In addition, on 26 February 1935, the Danish Government introduced a Bill to provide employment for persons who have been unemployed for long periods, and granting the Minister for Social Affairs the credits required to carry out public works for this purpose. It provides that the normal working week of the individual worker is to be between 16 and 32 hours, each worker's hours being fixed with reference to his circumstances, and in particular his family responsibilities and the standard of living at his place of residence.

It must also be noted that there has been a similar tendency to restrict hours of work on schemes undertaken or subsidised by public bodies other than the central Government. Measures of this kind have been introduced by the Governments of various States in countries with a federal constitution and also by certain regional administrations.

In the Australian State of *New South Wales*, contracts for works subsidised for the purpose of providing work for the unemployed contain a clause restricting hours of work to 44 in the week, which may be distributed over 5 or more days with a daily maximum of 9 hours. Every worker must be given an opportunity of making up during the same week or the following week for any time lost on account of bad weather, sickness, public holidays or any other cause beyond his control.

In *Belgium*, in 1931, the Provincial Councils of Brabant and East Flanders decided to insert in their specifications for work carried out for the provincial authorities a stipulation that 40 hours should be worked per week. However, Royal Orders of 22 November 1931 and 2 December 1931 invalidated these decisions.

In *Canada*, two Orders in Council which came into effect on 1 and 15 July 1933 respectively were issued by the Government of the Province of Quebec. The first of these, applying to the building industry in the Montreal Division, limits hours of labour to 8 a day and 40 a week, where the cost of the proposed works exceeds \$500, the contractor may at his option adopt a two-shift system of 6 hours a shift for 6 days a week. Further, it is stipulated that from 1 May to 1 October of each year the two-shift system must be established by any contractor for works exceeding \$20,000 in cost which are executed for municipal or school authorities or for parish trustees or for the Provincial Government, and by any contractor for works for an institution or corporation, 50 per cent of the cost of which is paid or guaranteed by the Provincial Government, or by a municipal corporation, or both.

The second Order applies to the Quebec City Division and the Eastern Townships and lays down similar provisions.

In *Czechoslovakia* the communes and regional administrative authorities such as those of the provinces, districts, etc., have decided to follow the example of the central Government and to introduce the 40-hour week for their public works.

In the *United States of America*, even before the passing of the National Industrial Recovery Act, certain States had introduced shorter working hours on works carried out for

the State. In *Wisconsin*, for example, the hours of work of persons employed on public works were reduced to thirty in the week, while the same applies in *California* with regard to building work undertaken by the State or the local authorities.

2. General Survey of the Laws and Regulations

The conclusions to be drawn from the measures described in the previous pages may be summed up as follows.

1 In the great majority of cases the method adopted to reduce hours of work directly is the inclusion in the contracts for public works schemes, or in the conditions upon which subsidies for such schemes are granted, of clauses binding the contractor to observe specified hours of work. Where the schemes are carried out by Governments themselves, the latter apply the hours they have prescribed without further formality.

2 In all cases hours have been fixed on a weekly basis, e.g. 44 hours in Australia (New South Wales), 40 hours in Germany, Luxemburg and Czechoslovakia, 36 hours during part of the year in Canada (Quebec) and 30 hours as a general rule in the United States. Maximum daily hours are fixed in certain countries as follows. New South Wales, 9 hours, Quebec, 6 hours, United States, 8 hours for workers boarded and lodged in camps and for projects carried out by the Federal Emergency Relief Administration and Civil Works Administration, Czechoslovakia, 7 hours. In the United States there is also a monthly limit of 130 hours for projects in localities where insufficient labour is available in the vicinity and of 128 hours for projects carried out by the Federal Emergency Relief Administration.

No limit is fixed in France. In Italy, the reduction of hours corresponds to the hours lost in the slack season or on account of bad weather, weekly hours of work in excess of 48 being in no case allowed. In Estonia hours of work are limited according to weekly earnings, and in Lithuania according to family responsibilities.

3 Most of these regulations merely prescribe a shorter working week, with few or no detailed provisions as to its application. Virtually the only detailed provisions that can be cited are the following.

The exclusion of staff in executive, administrative or supervisory positions in the United States, of several categories of workers in Italy, and of the staff of undertakings furnishing supplies for public construction works in Czechoslovakia.

Permission in certain circumstances to calculate hours of work over a period of four weeks in Czechoslovakia, under specified conditions.

A few provisions concerning the arrangement of hours of work; in Australia (New South Wales), the distribution of the 41 hours allowed in the week over not more than five days with a daily maximum of 9 hours; in Canada (Quebec), a system of two 6-hour shifts on six days in the week for part of the year; in the United States, various methods of distributing monthly hours in public works carried out by the Federal Emergency Relief Administration

Permission to make up within a specified period for time lost on account of bad weather, sickness, holidays or any other reason outside the worker's control, in Australia (New South Wales), and on account of inclement weather or unavoidable delays in the United States

In the United States, permission to extend hours up to 8 in the day and 40 in the week in localities so remote and inaccessible that the workers have to be boarded and lodged in camps, and in the case of projects carried out by the Federal Emergency Relief Administration, permission to exceed 8 hours in the day to meet emergencies affecting public welfare or to protect work already done.

The suppression of overtime in Italy save in exceptional cases, and then subject to the condition that it is not resorted to continuously or at regular intervals

III. — PROBLEMS ARISING IN CONNECTION WITH INTERNATIONAL REGULATIONS

Public works carried out or subsidised by Governments present certain special characteristics which are particularly favourable to the application of shorter hours of work.

In the first place, as has been seen, hours of work on public works have already been reduced to a greater or less extent by various countries, including Czechoslovakia, Germany, Italy, Luxemburg and the United States. In France, provision has been made which would enable hours of work to be reduced and similar measures are also contemplated in Denmark. It may be noted, too, that the Conference of representatives of the Governments of the Northern Countries, held in Oslo on 8 and 9 October 1934 to discuss social questions, adopted a resolution drawing attention to the "desirability of reducing hours of work on works organised by the public authorities or with their support to provide work for the unemployed at normal rates of wages."

The public works under consideration here are initiated by Governments, which benefit by any measures tending to reduce unemployment since they at the same time reduce the cost of maintaining the unemployed. Governments can impose conditions with regard to the execution of such works, whether they carry them out themselves or entrust them to contractors or concession holders, or whether they merely furnish subsidies. These conditions may include the obligation to apply a shorter working week. Hours of work can thus be reduced without recourse to legislative action to amend general regulations on the subject.

Consisting as they do largely in building and contracting, public works generally employ directly a large amount of labour, while their execution also leads to increased employment of labour in the undertakings supplying the goods required for the works. If the working week is shortened the increase in the number of workers employed would therefore be substantial, and there should be comparatively little difficulty in obtaining the necessary additional labour since much of the work directly on the job does not call for specially skilled labour.

If, in view of all these favourable conditions, it should be considered desirable to frame international regulations for the reduction of hours of work on public works, the problems to be dealt with may be summed up as follows

1. Form of the Regulations

The first question is that of the form which international regulations to reduce hours in public works should take, whether

a Draft Convention or a Recommendation In this connection it should be remembered that the Eighteenth Session of the Conference requested the Governing Body of the International Labour Office to place the question of the reduction of hours of work on the Agenda of the Nineteenth Session for the adoption of one or more Draft Conventions

2. Content of the Regulations

SCOPE

It has already been suggested that for the purpose of the proposed international regulations public works may be taken to mean building and civil engineering works of all kinds carried out for purposes of public utility and financed wholly or partly by the central Government of the State It would be possible, perhaps, to delimit the scope of the regulations by a general definition on these lines, but in view of the great variety of public works in character, importance and methods of financing, some more precise definition may be considered desirable. This might be secured in either of two ways The responsibility for defining "public works" with greater precision for the purpose of the regulations might be placed upon the Government of each country. Some divergencies might arise as to marginal cases in different countries, but inasmuch as the question of international competition does not arise in respect of public works the fact that the area of application of the regulations might not be absolutely identical in all countries would not appear to be of any special importance Alternatively, public works might be defined by enumerating the various kinds of building and civil engineering work to be regarded as included under that designation The list given at the beginning of this section (page 24) might serve as the basis of such an enumeration, and reference might also be made to the enumeration set out in Article 1 of the proposed Draft Convention for the building and contracting industry which appears in Volume III of this Report. A definition in general terms might also, of course, be accompanied by a list of works of the kind in question given as examples

Whichever of these courses is adopted, there will still remain to be taken into consideration certain other problems concerning the scope of the regulations. Building and civil engineering works

require the supply of tools, machinery, materials and the like. The question therefore arises whether the regulations should apply solely to employment on the works themselves or should extend to all work on the manufacture and preparation of the supplies required for the works. This is a question of some moment, as the application of shorter hours presents a number of technical problems which vary in character and importance according to the nature of the work. The work on the site consists very largely of excavation and construction, so that practically the only limitation on the number of workers who may be employed is the space available on the site, and even where space is limited more workers can be employed if a rotation system is applied. Moreover, a large proportion of unskilled labour can be employed on work of this type. On the other hand, the execution of orders for the supplies required for public works involves a wide range of industries, and any regulations to reduce hours of work in these would have to take into account a number of important factors such as premises, plant, equipment, the supply of skilled labour, etc. Further, as already pointed out above, the undertakings which furnish supplies for public works may also carry out orders for private customers, and in that respect they have to reckon with the competition of similar undertakings. Would it be possible to impose on these undertakings two different systems of hours of work, and probably also two different wage scales, according as the workers were employed on executing orders for public works or for similar supplies ordered for private industry? And, if the shorter working hours were applied to all the workers, what would be the position of these undertakings in relation to competitors who, because they did not supply orders for public works, continued to work longer hours?

There are also other classes of works undertaken by the State itself which, although not used by the public in the same sense as a bridge, canal, road, public building or the like, are nevertheless of public utility in that they form part of the country's equipment for national defence. These include, on the one hand, defensive works on land or sea and, on the other, naval and military armaments, ships, airships, aeroplanes, munitions of all kinds, etc., as well as all supplies for purposes of national defence. The question of supplies for Government departments may also have to be considered as possibly being covered by the term "public works".

In its report to the Sixty-ninth Session of the Governing Body in January 1931, the Office suggested that in order to avoid practical difficulties the application of the proposed regulations to reduce working hours should be limited to work performed directly on public works, to the exclusion of all work connected with supplies for public works. Moreover that report did not take into account national defence works nor the general question of supplies may arise, and Governments should be consulted on these various points with a view to determining what meaning should be attached to the term "public works" for the purpose of the application of the proposed regulations.

Nevertheless all these classes of public works it may be decided should be consulted what meaning should be attached to the term "public works" for the purpose of the application of the proposed regulations. Lastly, whatever classes of public works it may be decided to include, the Conference will have to consider whether the regulations should apply to all such works or, as under the Quebec regulations in Canada, only to works of a certain magnitude. The latter method may be regarded as leading in practice to the exclusion of works of minor importance which are usually carried out by small contractors employing an inconsiderable amount of labour.

OTHER PROVISIONS

The question of scope in respect of the works to be included having been settled, there remains the question of the lines upon which regulations for the reduction of hours on these works should be drafted. There are two governing considerations to be taken into account in coming to a decision on this point. On the one hand, there is the fact that public works vary very widely in technical character. On the other hand, Governments exercise or can exercise, first, a decisive influence on the fixing of the conditions under which public works are to be carried out, and secondly, effective supervision over their execution. Bearing in mind the first of these two considerations, it would hardly seem to be possible to frame, as might be done for a single clearly defined and homogeneous industry, regulations which would not only fix normal hours of work but also include very detailed provisions as to the classes of persons to be covered, the arrangement of hours of work, the making up of lost time, continuous work, exceptions, etc.

The Conference may perhaps consider the most practical course to be simply to lay down in the international regulations the maximum limit for hours of work and certain general conditions to which the regulation of hours in each country must conform, but to leave it to the Government of each country to settle questions of detail in accordance with the technical requirements of the work concerned

It will, of course, be for the Conference to fix the maximum for the reduced hours of work. This maximum might be prescribed as an average to be calculated over a period which would be determined by the Government and which might be varied having regard to the circumstances of particular cases

The definition of what is meant by "hours of work" might be that which was agreed to by the conference of Ministers of Labour of certain countries held in London in March 1926 to consider the interpretation of certain provisions of the Convention of 1919 limiting hours of work in industrial undertakings, and which was subsequently included in the Convention of 1930 concerning commerce and offices. This definition was as follows

"The term 'hours of work' means the time during which the persons employed are at the disposal of the employer, it does not include rest periods during which the persons employed are not at the disposal of the employer."

The framing of regulations on these lines would seem to be feasible in the light of the second governing consideration mentioned above. The fact that public works are financed wholly or in part by Governments enables the Governments to determine the conditions under which the works are to be carried out.

Where Governments themselves carry out such works they fix the conditions for their execution in detail, and their own officials supervise their observance.

Where Governments have public works carried out by contractors or concession holders, they can include in the contracts clauses concerning the restriction of hours of work.

Where Governments subsidise public works, they can make the grant of the subsidy conditional on an undertaking to limit the hours of work of the persons to be employed with the aid of the funds thus obtained.

In both the first two cases, Governments can include in the contracts or conditions for the grant of the subsidy detailed provisions concerning the application of the reduced hours, or require that such provisions shall be embodied in rules which must be submitted to them for approval. Such provisions would be adapted to the kind of work in question and would deal with such matters as the categories of persons who might, where necessary, be exempted from the application of the regulations (persons occupying positions of management or supervision or employed in a confidential capacity, etc.), the arrangement of hours of work and, in particular, the period over which the average of hours of work is to be calculated, the limits of hours of work on continuous processes, the various exceptions to be permitted (e.g. for persons employed on preparatory, complementary or intermittent work, for accidents, urgent work and cases of *force majeure*, etc.), and methods of enforcement (posting up of time-tables, etc.)

Before prescribing certain of these stipulations the competent authority might consult the employers' and workers' organisations concerned. In any event, of course, Governments would be in a position to take the measures required to enable them to ensure the application of the provisions included in the contracts, agreements for subsidies, or approved rules.

As regards international supervision, this may be ensured by means of the annual reports by Governments provided for by the Constitution of the Organisation

On the basis of the foregoing considerations, the Office has drawn up in somewhat general terms the list of the points on which it suggests that Governments might be consulted in the event of the Conference deciding to apply the double-discussion procedure to the question of the reduction of hours of work on public works. If, however, the Conference should wish to deal more specifically with certain of these points, it could take as the basis of discussion the corresponding points in the list prepared for the building and contracting industry (see Vol III of this Report), which cover the same ground in more detail.

CONSULTATION OF THE GOVERNMENTS

In accordance with Article 6 of the Standing Orders of the Conference, the Office suggests that Governments should be consulted on the following points

1 FORM OF THE REGULATIONS

Desirability of adopting a Draft Convention (rather than a Recommendation) for the reduction of the hours of work of persons employed on public works undertaken or subsidised by Governments.

2. SCOPE OF THE REGULATIONS

(a) Delimitation of the scope

- (i) by a definition in general terms, power being given if necessary to the competent authority to delimit more precisely; or
- (ii) by drawing up a list of the works to be regarded as public works; or
- (iii) by a combination of a definition with a list of examples.

(b) Possible exclusion from the proposed regulations of work connected with the delivery or supply of tools, equipment, machines, materials, etc., for public works.

(c) Possible exclusion of certain kinds of public works, such as works on sea or land carried out in time of peace for the purposes of national defence and work on supplies of all kinds for the purposes of national defence, and work on supplies for Government departments.

(d) Possible exclusion of minor works.

3. HOURS OF WORK

Fixing of the maximum weekly limit of hours of work.

4. OTHER PROVISIONS

Desirability of including in the Draft Convention either general or detailed provisions on the following points :

- (a) Exclusion from the scope of the regulations of certain categories of persons.
- (b) Definition of hours of work.
- (c) The arrangement of hours of work and, in particular, the period over which the average of hours of work may be calculated.
- (d) Exceptions.
- (e) Measures for enforcement (posting of time-table of hours, etc.).
- (f) Provision for international supervision : specification of information to be furnished in the annual reports by Members who have ratified the Draft Convention.

THIRD PART

BASIS FOR A SINGLE AND FINAL DISCUSSION

This part is designed to enable the Conference, if it should so desire, to take a decision at its Nineteenth Session as to the adoption of international regulations for the reduction of hours of work on public works carried out or subsidised by Governments. It therefore gives the text of a proposed Draft Convention submitted by the Office for the consideration of the Conference, together with a commentary explaining the suggested provisions Article by Article.

Before proceeding to the consideration of the proposals submitted in respect of public works, the Office feels that it may be desirable to make certain observations of a general character applicable to the proposals it submits to the Conference in respect of all the industries specially mentioned in the item on the Agenda.

In the preparation of proposals for Draft Conventions for consideration by the Conference so that it may, if it so desire, take final decisions at the Nineteenth Session, the Office has had the advantage of being able to profit to some extent by the discussions which took place prior to and during the Eighteenth Session of the Conference. On the other hand, of course, the Office has not had the benefit of the replies of Governments to detailed Questionnaires relating to the particular industries now under consideration, and has therefore not had the usual basis on which to frame its proposals. The main problems the Office has had to solve have been, first, the definition of the scope of the several Draft Conventions to be prepared and, secondly, the adaptation, with a view to meeting the special conditions and requirements of the particular industries, of the provisions contained in the existing Conventions on Hours of Work and in the draft examined, and in general approved, by the Committee of the Eighteenth Session of the Conference.

As regards the first problem, the Office has thought it expedient, in order to facilitate the early adoption of a Draft

Convention concerning one or more of the five categories of employment under consideration, to limit the scope of certain of the proposals it submits to a somewhat more restricted field than the wording of the item on the Agenda might be held to warrant. As regards the second, the Office has given as full consideration as was possible in the circumstances to the actual conditions of work in the various industries, and believes that the detailed provisions of its proposals will be found to be adapted to practical requirements. Nevertheless, the Office recognises that its proposals are inevitably more tentative in character than is usually the case.

Commentary upon the Proposed Draft Convention for the Reduction of Hours of Work on Public Works¹

SCOPE OF THE DRAFT CONVENTION

Article 1

1. This Convention applies to persons directly employed on building or civil engineering work wholly financed by the central Government of a Member or subsidised by such a Government.

2. For the purpose of this Convention, the precise scope of the terms "building or civil engineering", "wholly financed" and "subsidised" shall be delimited in each country by the competent authority.

3. The competent authority in each country may exempt from the application of this Convention

- (a) persons employed in undertakings in which only members of the employer's family are employed;
- (b) persons occupying a position of supervision or management who do not ordinarily perform manual work,
- (c) persons employed in a confidential capacity

Responsibility of the Central Government

The wording of the item on the Agenda is "Public works undertaken or subsidised by Governments". As was pointed out in Part II, it seems desirable for the sake of simplicity and to facilitate ratification, to limit the scope of the proposed Draft Convention to public works the conditions of employment on which can be directly determined by the authority which would be responsible for the ratification and enforcement of the

¹ The complete text of the proposed Draft Convention submitted by the Office will be found at the end of this volume.

Convention. This means that the public works to be dealt with must be limited to those undertaken or subsidised by the central Government, as distinct from those undertaken or subsidised by a State Government of a federal State or by a local government of any kind. The first paragraph of Article 1 is drafted so as to effect this limitation. This does not, of course, mean that public works carried out by the governing bodies of States, Provinces or other local units will be entirely unaffected by the Draft Convention. Where the central Government grants a subsidy for public works carried out by such bodies it will, when it has ratified the Draft Convention, be bound to make the grant of the subsidy conditional upon the observance in the execution of the work of the conditions prescribed by the Convention. Only works undertaken by subordinate public bodies without any financial aid from the central Government would be unaffected by the Convention. It is, however, a common occurrence for the central Government to grant subsidies for the execution of the more important public works carried out by local authorities, and it may be anticipated that the example given by the central Government would be generally followed by local authorities even in the case of works the cost of which is borne wholly out of their own funds.

Direct Employment

It will be observed also that the proposed Draft Convention applies only to persons *directly* employed on public works. The execution of any public works entails the supply of all kinds of materials, and the industries and trades engaged in the supply of these materials are so numerous and varied that it would be quite impracticable to regulate conditions of employment both "on the job" and in the supply undertakings by means of a single Convention. Moreover, the undertakings supplying the materials for public works would, except in very rare cases, also be engaged in supplying the same materials to contractors engaged in private work. It would be impracticable, in view of the competition between undertakings, to insist on the application of special conditions of employment to the whole of an undertaking which happened to sell part of its output for public works purposes, and impracticable also to require the observance of different conditions of employment within an undertaking according to whether the workers were engaged in the production

and supply of goods destined for public works or of goods destined for the ordinary market. The only practicable course would seem, therefore, to be to provide, as is done in paragraph 1 of this Article, that the Convention shall apply to "persons directly employed on public works" This does not entail limitation to the workers employed actually on the site of the main "job" itself, workers engaged in subsidiary works or operations, even at a distance from the main site or sites, would be covered provided that they are working directly and exclusively for public works

Definition of "Public Works"

The expression "public works" is generally interpreted to mean building or civil engineering work for purposes of public utility, whether carried out in the ordinary course or for the purpose of relieving unemployment. It can hardly be said, however, that there is a firmly established and quite definite delimitation of the scope of the expression in all countries. Building and civil engineering jobs vary very greatly in character and in importance, and it might be difficult to say whether in a particular case a job would be regarded as coming under the term "public works". Again, the financing and subsidising of work may be effected, directly or indirectly, in a variety of different ways, and, especially in the case of subsidies, it might be necessary to particularise what was meant by 'subsidised'. It would hardly be possible to devise a formula for international application that would cover all possible cases, and it is therefore necessary to place the responsibility upon the Governments. Accordingly, the general scope of the Draft Convention as regards the work which will be subject to its provisions is defined in paragraph 1 of this Article by the use of the expressions "building or civil engineering work", "wholly financed" and "subsidised", and the responsibility for establishing any more precise delimitation that may be considered necessary is, by paragraph 2, placed upon the competent authority in each country. The result might perhaps be to give rise to some slight divergencies in border-line cases between different countries, but in view of the absence of the factor of international competition in regard to public works, it is thought that no importance need be attached to such differences as might occur. In any event, it will be seen that in Article 7 it is pro-

posed to require Governments to include in the annual reports to be furnished on the application of the Convention full information concerning the use made of the power given by paragraph 2 of this Article

Undertakings to be Excluded

Special consideration has had to be given to the question of the inclusion of small undertakings, which, it will be remembered, gave rise to serious difficulties when a proposal for a Draft Convention applicable to all industrial undertakings was under discussion at the Eighteenth Session of the Conference. The matter is, perhaps, of less importance in connection with public works than in connection with building and contracting generally, but small undertakings may, of course, execute contracts for public works, and the question arises whether the proposed Draft Convention should be made applicable to them

On careful consideration the Office has come to the conclusion that it would be difficult to justify the exclusion of small undertakings from the scope of the Convention and that their exclusion would indeed give rise to serious inconveniences in practice. A characteristic feature of the building and contracting industry in most countries is the very large number of small undertakings engaged in it, quite small undertakings constituting in many cases a substantial proportion of the industry. If the reduction of hours of work were not to be applied in the case of small undertakings the conditions of competition between them and the larger undertakings would be substantially altered in favour of the former. Moreover, work in this industry may be subdivided to a very considerable degree, and it is conceivable that a particular public works job which, taken as a whole, would require the resources of a large undertaking might be so subdivided as to permit of a substantial part of the job being executed by small contractors. If the hours of work of the employees of these small contractors were not to be subject to reduction, the purpose of the Convention would be defeated. Finally, there is the practical difficulty of determining the number of workers at which the dividing line between small and large undertakings should be drawn. A small contractor may, and indeed usually does, employ different classes and numbers of workers at different stages of the execution of a job; it would be extremely difficult, therefore, to determine what should be the

limit of the number of workers qualifying an undertaking to be regarded as entitled to exclusion, and, even if a limit were fixed, what should be regarded as the number of workers actually employed in a particular case by a small contractor. For these reasons, the Office is of opinion that the proposed Draft Convention should apply to all undertakings, whether large or small.

There is, however, one case in which a distinction appears to be both justifiable and practicable. Thus is the case of the family undertaking, in which only members of the employers' family are engaged. In the field of public works, this case is probably not of any great importance, but it is perhaps worth while to meet it, and accordingly provision is made in clause (a) of paragraph 3 of this Article to enable the competent authority in each country to exclude family undertakings from the application of the Convention if it so desires.

Persons to be Excluded

Little comment is necessary on clauses (b) and (c) of paragraph 3 of this Article, which authorise the competent authority to exempt from the application of the Convention, if it so desires, non-manual workers in positions of supervision or management and persons employed in a confidential capacity. Exemptions of this kind are provided for in all the existing Conventions on hours of work, and the principle appears to be generally accepted.

LIMITATION OF HOURS OF WORK

Article 2

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts at processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. Where hours of work are calculated as an average the competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the number of weeks over which this average may be calculated

4. For the purpose of this Convention, the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal

The 40 or 42 Hour Week

Paragraphs 1 and 2 of this article prescribe as the maximum hours of work of the persons to whom the Convention applies an average working week of 40 hours in the case of ordinary operations and of 42 hours in the case of continuous processes. The slight increase of two hours in the length of the week for continuous operations is explained by the necessity of providing for a continuous succession of shifts to cover the full 168 hours of the seven-day week. It should perhaps be remarked that the 42-hour week applies only in the case of operations that for technical reasons cannot be interrupted — pumping operations, for example — and does not apply in cases where as a mere matter of convenience the employer decides to work two day-time shifts or to work a series of shifts day and night but with a week-end stoppage. In these latter cases there is no technical obstacle to the normal 40-hour week

Averaging

The limitation of hours prescribed in paragraphs 1 and 2 is fixed as an average. There are undoubtedly disadvantages in permitting averaging in the case of workers whose employment is often far from stable and in whose case, therefore, there may be difficulties in checking the number of hours worked over a period of several weeks, though these disadvantages are probably less serious in the case of public works than in the case of building and contracting generally. On the other hand, the Draft Convention is intended to apply to a very wide range of occupations and kinds of work, which vary considerably in their technical character, the extent to which they are affected by climatic and other physical conditions, etc. The time available for the execution of certain parts of the work may be limited by circumstances beyond control (for example, the ebb and flow of the tides, the length of the dry season, the requirements of traffic, etc.), so that the arrangement of the work may have to vary from day to day and week to week. Moreover, since in many cases the number of workers engaged on a job at any one time may be limited by considerations of space, accessibility, equipment, etc., the primary purpose of the Draft Convention, namely, to increase the number of workers employed, might be defeated if it were made impossible to organise a system of rotation. For reasons of this kind, it was felt to be impossible

to make the 40-hour week an absolute maximum in all cases and consequently necessary to permit averaging. It may be added that the replies of Governments to the Questionnaire issued in preparation for the Eighteenth Session of the Conference revealed a general desire on the part of Governments for flexibility in the provisions relating to the calculation of hours of work.

Nevertheless, some provision is necessary to prevent the possibility of abuse under cover of averaging. If no limit were fixed to the period over which the average might be calculated, it would be theoretically possible — to invent an extreme case — for the average to be calculated over the whole year in a country in which, for climatic reasons, building and contracting operations could in fact be carried out only during certain months, with the result that the reduction of hours under the Draft Convention would be rendered illusory. But in view of the varied character of the industry and of the differences in conditions both between countries and between different branches of the industry, it seems hardly possible to prescribe in international regulations an absolute maximum for the period over which the average may be calculated. The responsibility for fixing this period — or periods, for different maxima might be fixed according to the requirements of particular kinds of work — must therefore be placed upon the competent national authority. Provision to this effect is accordingly included in paragraph 3 of this Article, and the necessary safeguard is secured by requiring the competent authority to consult any organisations of employers and workers which may exist before it makes any determination of the averaging period.

Definition of "Hours of Work"

Paragraph 4 of this Article includes a definition of "hours of work", designed to remove a possible cause of uncertainty, which is based on the definition agreed upon by the Ministers of Labour of certain countries who met in London in March 1926 to consider the interpretation of certain provisions of the Hours of Work (Industry) Convention 1919. This definition was adopted by the Conference itself in the Hours of Work (Commerce and Offices) Convention, 1930, and the replies to the Questionnaire issued in preparation for the Eighteenth Session

of the Conference showed that it met with the approval of Governments generally.

PREPARATORY, COMPLEMENTARY AND INTERMITTENT WORK

Article 3

1 The competent authority may by regulation provide that the limits of hours prescribed in the preceding Articles may be exceeded in the case of

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking; and
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls

2 The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article

This Article follows the lines of similar provisions for these classes of work which appear in the Hours of Work Conventions of 1919 and 1930 relating to industry and to commerce and offices in general. There was complete unanimity on the necessity for a provision of this kind among the Governments who replied to the Questionnaire issued in preparation for the previous Session of the Conference, and the principle appears to be generally accepted.

PROVISION FOR EMERGENCIES

Article 4

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*,
- (b) in order to make good the unforeseen absence of one or more members of a shift

This Article, like Article 3, follows the precedent of the Conventions of 1919 and 1930 and, in respect of shift workers, the Sheet-Glass Works Convention of 1934, and consequently does not appear to call for special comment.

OVERTIME

Article 5

1 The competent authority may grant an allowance of overtime for exceptional cases of pressure of work. Such an allowance shall only be granted under regulations made after consultation as to the necessity of such overtime and the number of hours to be worked with any organisations of employers and workers concerned, and no such allowance shall permit of any person being employed for more than one hundred hours of overtime in any year.

2 In cases of urgency in which it is satisfied of the impracticability of engaging additional persons, the competent authority may, in respect of specified persons or classes of persons, grant to individual undertakings temporary permits for further overtime, so however that no such permit shall allow the employment of any person for more than sixty hours of such overtime in any year.

3 Overtime authorised under this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

No doubt it may be assumed that Governments, when fixing the conditions upon which public works are to be carried out, will do their best to avoid the working of overtime in order that as many workers as possible may benefit by the employment given. Nevertheless, it must be recognised that overtime may occasionally be inevitable, and it is therefore necessary to make provision in the Draft Convention both to limit the amount of overtime worked and to fix the conditions upon which overtime may be resorted to. Control is necessary in order to prevent the purpose of the Convention being defeated by too ready a resort to overtime, and at the same time there must be sufficient flexibility to allow the occasional extensions of hours that may be necessitated by the practical requirements of the work. It would clearly not be possible to include detailed provisions in the international regulations, and the responsibility must therefore be placed upon the competent authority in each country, acting subject to certain general conditions. Paragraphs 1 and 2 of Article 5 lay down such general conditions.

Following a suggestion approved by a number of Governments in their replies to the Questionnaire issued in preparation for the Eighteenth Session of the Conference, it has been thought advisable to deal with the grant of overtime in two different ways. Provision is first made for an allowance of overtime to meet cases of pressure of work — for example, at certain seasons or to make good unforeseen delays in the execution of work that

has to be carried out to a time-table — which would constitute a kind of reserve upon which contractors could draw in circumstances which, while they cannot always be foreseen, are nevertheless known to be not unlikely to arise Paragraph 1 of Article 5 makes provision for this allowance The actual amount of overtime that may be worked is left to be determined by the competent authority and the granting of the allowance is subject to three conditions. The competent authority must issue formal regulations and before making the regulations it must consult any organisations of employers and workers concerned, both as to the necessity for overtime and as to the number of hours of overtime to be allowed These two conditions provide a reasonable safeguard that overtime will be allowed only in the circumstances in which, and to the extent to which, it is really necessary The third condition, that whatever the allowance of overtime granted, no worker may be called upon to work more than 100 hours of overtime in any year, provides a further safeguard that overtime will not be worked in circumstances that would more properly be met by an increase in the staff employed.

Circumstances may, however, arise which would not be adequately met by recourse to the ordinary allowance of overtime, even if an allowance has been granted, and accordingly permits for special overtime are provided for in paragraph 2 This provision is intended to meet urgent requirements in particular cases — for example, a shortage of a certain kind of labour, or some exceptional difficulty arising in the course of the execution of a particular public works job — and is subject to strict limitations The competent authority must be satisfied that the case is urgent, and that the need cannot be met by engaging extra staff, and any permit for overtime it may decide to grant must be temporary and be granted in respect of specified persons or classes of persons engaged in the particular undertaking in question Whatever the amount of overtime permitted, it must not be such as to entail the employment of any person affected for more than 60 hours of overtime in a year (apart from, and if necessary in addition to, any overtime that may be worked in virtue of an allowance granted in accordance with the provisions of paragraph 1) As this special overtime is designed to meet cases of urgency arising in individual undertakings, it does not seem practicable to insist upon consultation of the employers' and workers' organisations by the competent

authority before the issue of a permit, though there is, of course, no reason why such consultation should not take place where circumstances permit

Finally, as a further restraint upon unnecessary resort to overtime, and in accordance with established precedent, it is provided in paragraph 3 of this Article that all overtime, whether under allowance or permit, must be paid for at a rate at least 25 per cent. above the normal rate.

It will be seen later that in Article 7 provision is made for international supervision of the application of these overtime provisions by specifying that full information concerning the grant of overtime allowances and permits must be included in the annual reports furnished by Governments

ENFORCEMENT OF THE REGULATIONS

Article 6

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall be required

- (a) to notify, by the posting of notices in a conspicuous manner in the works or other suitable place or by such other method as may be approved by the competent authority
 - (i) the hours at which work begins and ends,
 - (ii) where work is carried on by shifts, the hours at which each shift begins and ends,
 - (iii) where a rotation system is applied a description of the system, including a time-table for each person or group of persons;
 - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks; and
 - (v) rest periods in so far as these are not reckoned as part of the working hours;
- (b) to keep a record in the form prescribed by the competent authority of all additional hours worked in pursuance of Articles 3, 4 and 5 and of the payments made in respect thereof.

This Article makes provision, on the lines adopted in the existing Hours of Work Conventions, requiring employers to notify in all the necessary detail the time-table and the arrangements for the organisation of the work and to keep a record of all extensions of hours and overtime worked showing the extra payments made in respect thereof. Both the workers concerned and the inspecting authorities will thus be able effectively to control the enforcement of the regulations

INTERNATIONAL SUPERVISION

Article 7

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning

- (a) the definitions adopted in virtue of Article 1, paragraph 2,
- (b) processes classed as necessarily continuous in character for the purpose of Article 2, paragraph 2;
- (c) arrangements of hours of work approved in virtue of Article 2, paragraph 3;
- (d) regulations made in virtue of Article 3; and
- (e) allowances of and temporary permits for overtime granted in virtue of Article 5

Without prejudice to the power of the Governing Body of the International Labour Office to determine the form of the annual report to be furnished by Members which have ratified the Draft Convention upon the measures taken to give effect to its provisions, it seems desirable to specify in the Draft Convention itself certain important matters upon which full information is necessary to ensure the effectiveness of the international supervision provided for by the Constitution of the Organisation. Article 7 accordingly specifies (a) any action taken by the competent authority as regards more precise delimitation of the scope of the Convention; (b) the processes classed as necessarily continuous upon which an average week of 42 hours may be worked; (c) the arrangements made as regards the calculation of hours of work as an average over a period, (d) the extensions of hours permitted for preparatory, complementary and intermittent work, and (e) the use made of the power to grant allowances of overtime and temporary permits for overtime.

* * *

In conclusion, the Office submits at the end of this volume the following texts for the consideration of the Conference, namely:

(1) A draft resolution embodying a declaration by the Conference in favour of the principle of the 40-hour week as the general international standard of hours of work, without prejudice to further reduction where circumstances permit, and of the progressive application of this principle over the

whole field of employment by a series of Draft Conventions, having regard to the special circumstances of particular groups of establishments or classes of workers (cf pp. 13-16);

(2) A proposed Draft Convention making specific provision for the application of this principle in the case of public works undertaken or subsidised by Governments, and including a Preamble which, as explained in Part I (p 15), would be common to the series of separate Conventions and the object of which would be to integrate them into a whole on the basis of the general declaration mentioned above, and

(3) A draft resolution concerning the adjustment of wages and salaries (cf pp 16-19)

PROPOSED TEXTS

DRAFT RESOLUTION ON THE REDUCTION OF HOURS OF WORK

Whereas unemployment has become so widespread and long-continued that there are at the present time many millions of workers throughout the world suffering hardship and privation for which they are not themselves responsible and from which they are justly entitled to be relieved;

Whereas it is desirable that workers should as far as practicable be enabled to share in the benefits of the rapid technical progress which is a characteristic of modern industry;

Whereas in pursuance of the Resolution adopted by the Eighteenth Session of the International Labour Conference it is necessary that a continuous effort should be made to reduce hours of work in all forms of employment to such extent as is possible;

The Conference therefore declares its approval of the principle of the forty-hour week as the general international standard of hours of work and as a guide for the action of the Members of the Organisation, without prejudice to further reductions of hours where circumstances permit;

The Conference will proceed, at the present and subsequent Sessions, to the consideration of a series of Draft Conventions for the progressive application of this principle to the whole field of employment, having regard to the special circumstances of particular groups of establishments or classes of workers.

The Conference accordingly decides to refer to a committee for consideration the reports prepared by the International Labour Office on the application of the reduction of hours of work to:

- (a) public works undertaken or subsidised by Governments;
 - (b) iron and steel;
 - (c) building and contracting;
 - (d) glass bottle manufacture;
 - (e) coal mines.
-

PROJET DE RÉSOLUTION CONCERNANT LA RÉDUCTION DE LA DURÉE DU TRAVAIL

Considérant que, le chômage a pris des proportions tellement étendues et sévit depuis si longtemps qu'il y a actuellement dans le monde des millions de travailleurs en butte à la misère et à des privations dont ils ne sont pas eux-mêmes responsables et dont ils ont légitimement le droit d'être soulagés;

Considérant qu'il serait désirable que les travailleurs soient mis, dans la mesure du possible, à même de participer au bénéfice des progrès techniques dont le développement rapide caractérise l'industrie moderne,

Considérant que, pour donner suite à la résolution adoptée par la dix-huitième session de la Conférence internationale du Travail, il est indispensable de tenter un effort continu afin de réduire le plus possible la durée du travail dans toutes les catégories d'emploi;

La Conférence se déclare en faveur du principe de la semaine de quarante heures comme limite internationale générale de la durée du travail, et comme directive pour les Membres de l'Organisation, sans préjudice des nouvelles réductions que les circonstances pourraient permettre;

Et elle procédera, à la session actuelle et aux sessions suivantes, à l'examen d'une série de projets de convention destinés à assurer l'application progressive de ce principe à l'ensemble de l'activité économique, en tenant compte des conditions particulières à des groupes d'établissements ou à des catégories de travailleurs déterminés

La Conférence décide en conséquence de renvoyer à l'examen d'une commission les rapports préparés par le Bureau international du Travail sur l'application de la réduction de la durée du travail

- a) aux travaux publics entrepris par les gouvernements ou subventionnés par eux;
 - b) au fer et à l'acier;
 - c) au bâtiment et au génie civil,
 - d) au verre à bouteilles;
 - e) aux mines de charbon
-

PROPOSED DRAFT CONVENTION CONCERNING HOURS OF WORK ON PUBLIC WORKS

The International Labour Conference,

Having met at Geneva in its Nineteenth Session on
4 June 1935,

Considering that the question of the reduction of hours
of work appears on the Agenda of the Session,

Having adopted on June 1935 a resolution declaring
its approval of the principle of the forty-hour week as the
general international standard of hours of work, and

Having determined to give effect to this reduction
forthwith in the case of public works undertaken or sub-
sidised by Governments,

adopts, this day of June 1935, the following Draft Convention

ARTICLE 1

1 This Convention applies to persons directly employed
on building or civil engineering work wholly financed by the
central Government of a Member or subsidised by such a
Government

2 For the purpose of this Convention the precise scope of
the terms "building or civil engineering", "wholly financed"
and "subsidised" shall be delimited in each country by the
competent authority.

3 The competent authority in each country may exempt
from the application of this Convention·

- (a) persons employed in undertakings in which only
members of the employer's family are employed,
- (b) persons occupying a position of supervision or manage-
ment who do not ordinarily perform manual work,
- (c) persons employed in a confidential capacity

ARTICLE 2

1 The hours of work of persons to whom this Convention
applies shall not exceed an average of forty per week

AVANT-PROJET DE CONVENTION CONCERNANT LA DURÉE DU TRAVAIL DANS LES TRAVAUX PUBLICS

La Conférence internationale du Travail,

S'étant réunie à Genève le 4 juin 1935 en sa dix-neuvième session,

Considérant que la question de la réduction de la durée du travail figure à l'ordre du jour de la session,

Ayant adopté le juin 1935 une résolution en faveur du principe de la semaine de quarante heures comme limite internationale générale de la durée du travail,

Décidée à réaliser dès maintenant cette réduction en matière de travaux publics entrepris ou subventionnés par les gouvernements,

adopte, ce jour de juin 1935, le projet de convention ci-après.

ARTICLE PREMIER

1. La présente convention s'applique aux personnes directement occupées aux travaux du bâtiment et du génie civil entièrement financés par le gouvernement central d'un Membre ou subventionnés par un tel gouvernement.

2 Aux fins de la présente convention, le portée exacte des expressions « bâtiment et génie civil », « entièrement financés » et « subventionnés » sera définie dans chaque pays par l'autorité compétente.

3. Dans chaque pays, l'autorité compétente peut exempter de l'application de la présente convention.

- a) les personnes employées dans les entreprises où sont seuls occupés les membres de la famille de l'employeur;
- b) les personnes occupant un poste de surveillance ou de direction et ne participant normalement à aucun travail manuel;
- c) les personnes occupant un poste de confiance.

ARTICLE 2

1. La durée du travail des personnes auxquelles s'applique la présente convention ne doit pas dépasser en moyenne quarante heures par semaine

2 In the case of persons who work in successive shifts at processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two

3 Where hours of work are calculated as an average the competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the number of weeks over which this average may be calculated

4 For the purpose of this Convention, the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal

ARTICLE 3

1 The competent authority may by regulation provide that the limits of hours prescribed in the preceding Articles may be exceeded in the case of

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, and
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls

2 The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article

ARTICLE 4

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*;
- (b) in order to make good the unforeseen absence of one or more members of a shift.

2. Pour les personnes qui travaillent par équipes successives à des travaux dont le fonctionnement continu doit, en raison même de la nature du travail, être assuré sans interruption à aucun moment du jour, de la nuit ou de la semaine, la durée hebdomadaire moyenne du travail peut atteindre quarante-deux heures

3. Quand la durée du travail est calculée d'après une durée moyenne, l'autorité compétente doit, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, fixer le nombre de semaines sur lequel cette durée moyenne peut être calculée

4. Aux fins de la présente convention, l'expression « durée du travail » signifie le temps pendant lequel le personnel est à la disposition de l'employeur, et ne comprend pas les repos pendant lesquels il n'est pas à sa disposition.

ARTICLE 3

1. L'autorité compétente peut, par des règlements, permettre de dépasser la limite des heures de travail fixée aux articles précédents dans le cas :

- a) de personnes employées à des travaux préparatoires ou complémentaires qui doivent être nécessairement exécutés en dehors de la limite assignée au travail général de l'entreprise;
- b) de personnes employées à des occupations qui, par leur nature, comportent de longues périodes d'inaction pendant lesquelles ces personnes n'ont à déployer ni activité matérielle ni attention soutenue, ou ne restent à leur poste que pour répondre à des appels éventuels

2. Les règlements prévus au paragraphe 1 doivent déterminer le nombre maximum d'heures de travail qui peuvent être effectuées en vertu du présent article.

ARTICLE 4

Les limites des heures de travail prévues aux articles précédents peuvent être dépassées, mais uniquement dans la mesure nécessaire pour éviter qu'une gêne sérieuse ne soit apportée à la marche normale de l'entreprise.

- a) en cas d'accident survenu ou imminent, ou en cas de travaux d'urgence à effectuer aux machines ou à l'outillage, ou en cas de force majeure,
- b) pour faire face à l'absence imprévue d'une ou plusieurs personnes d'une équipe

ARTICLE 5

1. The competent authority may grant an allowance of overtime for exceptional cases of pressure of work. Such an allowance shall only be granted under regulations made after consultation as to the necessity of such overtime and the number of hours to be worked with any organisations of employers and workers concerned, and no such allowance shall permit of any person being employed for more than one hundred hours of overtime in any year.

2. In cases of urgency in which it is satisfied of the impracticability of engaging additional persons, the competent authority may, in respect of specified persons or classes of persons, grant to individual undertakings temporary permits for further overtime, so however that no such permit shall allow the employment of any person for more than sixty hours of such overtime in any year

3 Overtime authorised under this Article shall be remunerated at not less than one-and-a-quarter times the normal rate

ARTICLE 6

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall be required

(a) to notify, by the posting of notices in a conspicuous manner in the works or other suitable place or by such other method as may be approved by the competent authority.

(i) the hours at which work begins and ends,

(ii) where work is carried on by shifts, the hours at which each shift begins and ends;

(iii) where a rotation system is applied a description of the system, including a time-table for each person or group of persons;

(iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks, and

(v) rest periods in so far as these are not reckoned as part of the working hours,

(b) to keep a record in the form prescribed by the competent authority of all additional hours worked in pursuance of Articles 3, 4 and 5 and of the payments made in respect thereof

ARTICLE 5

1. L'autorité compétente peut attribuer un contingent d'heures supplémentaires pour faire face à des surcroîts de travail extraordinaires. Ce contingent ne peut être attribué qu'en vertu de règlements édictés après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, sur la nécessité de ces heures supplémentaires et sur leur nombre. Le maximum des heures ainsi accordées ne doit pas permettre qu'une personne soit employée plus de cent heures supplémentaires par an

2 En outre, dans des cas d'urgence où elle est fondée à considérer comme impossible l'embauchage de nouvelles personnes, l'autorité compétente peut accorder à des entreprises déterminées, pour des personnes ou des groupes de personnes désignés, des autorisations temporaires d'heures supplémentaires, sous réserve qu'une autorisation ainsi accordée n'entraîne pas l'emploi d'une personne pendant plus de soixante heures de travail supplémentaires au cours d'une année

3 Les heures supplémentaires effectuées en vertu des dispositions du présent article seront rémunérées à un taux majoré d'au moins vingt-cinq pour cent par rapport au salaire normal

ARTICLE 6

En vue de faciliter l'application des dispositions de la présente convention, chaque employeur doit

- a) faire connaître au moyen d'affiches apposées d'une manière apparente dans l'entreprise ou dans tout autre lieu convenable ou selon tout autre mode approuvé par l'autorité compétente
 - i) les heures auxquelles commence et finit le travail;
 - ii) si le travail s'effectue par équipes, les heures auxquelles commence et finit le tour de chaque équipe,
 - iii) s'il est fait application d'un système de roulement, une description de ce système, y compris un horaire de travail pour chaque personne ou groupe de personnes,
 - iv) les dispositions prises dans les cas où la durée hebdomadaire moyenne du travail est calculée sur plusieurs semaines,
 - v) les repos, dans la mesure où ils ne sont pas considérés comme faisant partie des heures de travail
- b) inscrire sur un registre, selon le mode approuvé par l'autorité compétente, toutes les prolongations de la durée du travail qui ont eu lieu en vertu des articles 3, 4 et 5 ainsi que le montant de leur rétribution.

ARTICLE 7

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning

- (a) the definitions adopted in virtue of Article 1, paragraph 2;
 - (b) processes classed as necessarily continuous in character for the purpose of Article 2, paragraph 2;
 - (c) arrangements of hours of work approved in virtue of Article 2, paragraph 3;
 - (d) regulations made in virtue of Article 3; and
 - (e) allowances of and temporary permits for overtime granted in virtue of Article 5
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ARTICLE 7

Les rapports annuels soumis par les Membres sur l'application de la présente convention doivent comprendre des renseignements complets concernant notamment :

- a) les définitions adoptées en vertu de l'article 1^{er}, paragraphe 2,
- b) les travaux considérés comme étant, par leur nature, à fonctionnement nécessairement continu, aux fins de l'article 2, paragraphe 2,
- c) les répartitions des heures de travail approuvées en vertu de l'article 2, paragraphe 3;
- d) les règlements établis conformément aux dispositions de l'article 3;
- e) les contingents et autorisations d'heures supplémentaires accordés en vertu de l'article 5

DRAFT RESOLUTION ON THE ADJUSTMENT OF WAGES AND SALARIES

The Conference,

Having adopted a Resolution declaring its approval of the principle of the forty-hour week,

Considering that the application of this principle should not result in lowering the standard of living of the workers,

Invites Governments to take appropriate measures in order to ensure

- (1) that any adjustment of wages and salaries should be effected as far as possible by means of direct negotiations between the employers' and workers' organisations concerned, and
- (2) that if agreement between the parties concerned cannot be reached, it should be possible for either of the parties concerned to submit the dispute to bodies competent to deal with wage questions, and further, that where no such bodies exist, they should be set up

PROJET DE RÉSOLUTION CONCERNANT L'ADAPTATION DES SALAIRES ET TRAITEMENTS

La Conférence,

Ayant adopté une résolution déclarant approuver le principe de la semaine de quarante heures,

Considérant que l'application de ce principe ne devait pas avoir pour conséquence une réduction du niveau de vie des travailleurs,

Invite les gouvernements à prendre les dispositions appropriées :

- 1) pour que toute adaptation des salaires et des traitements se fasse dans la plus large mesure possible par voie de négociations directes entre les organisations patronales et ouvrières intéressées, et
 - 2) pour que, si un accord entre les parties intéressées se révèle impossible, le différend puisse être porté, par l'une ou l'autre des parties intéressées, devant des organismes habilités pour traiter les questions de salaires et pour que, lorsqu'ils n'existent pas, de tels organismes soient institués
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